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HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3106 OF 2006.

Gajanan Shikshan Prasarak Mandal,
Through its Secretary -
Arun Shrimant Chavan. ..Petitioner.

Versus.

The State of Maharashtra & Others...Respondents.

Mr. S. G. Kudale for the petitioner.

Mr. Nitin Jamdar for respondent Nos. 3 & 4.

Mr. S. S. Kanetkar h/f Mr. G. S. Godbole for the respondent Nos. 5 & 6.

Mr. S. R. Nargolkar A.G.P. for the State.

CORAM: S. B. MHASE &
R.S.MOHITE, JJ.

DATE: APRIL 17, 2007.

P.C.

1. Heard learned counsel Mr. S.G. Kudale at length. This writ petition pertains to the transfer of a school run by Gajanan Shikshan Prasarak Mandal to Snehalaya Social Trust. The petitioner is one of the trustees of the Gajanan Shikshan Prasarak Mandal, and he claims to be the secretary of the said institution. However on his own showing he appears to be the secretary of the said institution for the period of 1.5.1997 till 30.4.2000. This can be gathered from the extract of the proceeding book dated 5.5.1997 which is

annexed to his rejoinder. Petitioner could not show any proceeding wherein he was shown to be elected as a secretary of the said institution for a further period, i.e., 30th April 2000 onwards.

2. The transfer of the school has been effected for the academic year 2004-05. The resolution to transfer the school of Gajanan Shikshan Prasarak Mandal was passed in the meeting of the said trust on 31.5.2004. Similarly, Snehalaya Social Trust has passed a resolution to get the said school transferred on 1.6.2004. Thus, what we find is that since 2004, it appears that the discussions must have been going on between the trustees of the institutions and respectively the resolutions were passed as stated above. Thereafter the document in respect of transfer of the school was effected by the heads of the institution of both the trusts on 16.3.2005 before the Notary Public. What is pertinent to note is that the consent letter of the trustees has been signed by all the trustees of Gajanan Shikshan Prasarak Mandal. One of the signatory on the said consent letter is the petitioner. Petitioner has disputed the said signature. We tried to tally the said signature with the admitted signatures of the petitioner on the various documents produced by the petitioner and his

admitted signature on the writ petition. We, prima facie, find that the disputed signature of the petitioner tallies with the admitted signatures of the petitioner, and prima facie it is not possible to say that the disputed signature is forged one. Thus what we find is that all the trustees of Gajanan Shikshan Prasarak Mandal and the office bearers have passed the resolution and executed the document of transfer. All these documents were considered. Matter was heard and thereafter the order transferring the school has been passed by the Officer of the respondent. Hearing in the matter appears to have taken place on 8.8.2005. At that time office bearers of both the Trusts were present before the respondent - Officer and accordingly minutes have been recorded by the Officers of the Education Department. What is to be noted is that at the relevant time, after the year 2000, it appears that one Mr. Subhash Chavan was the secretary of Gajanan Shikshan Prasarak Mandal and the petitioner, i.e., Arun Shrimant Chavan, was not the secretary of the said Trust as is reflected from the document produced along with the transfer papers. Thus, to some extent the petition involves the disputed questions of fact, namely, who is the secretary of Gajanan Shikshan Prasarak Mandal; Whether the petitioner - Arun Chavan has consented or not. However, we find that the

respondent Education Department has made every possible inquiry and thereafter has passed the order of transfer of the school, and the action of the respondent - Education Department cannot be termed as malafide as such. All legal formalities in respect of the transfer appears to have been complied with by the Education Department and thereafter the order in question has been passed. All these circumstances pursuade us not to entertain the petition. Petition is hereby rejected.

. While passing this order the Director of Education has produced original file - papers regarding the transfer of the said school for our perusal.

(R.S.MOHITE, J.) **(S.B.MHASE, J.)**